

JUL 20 2006

<b>FACSIMILE TRANSMITTAL FORM</b>	Application Number	10/689172
	Confirmation Number	2716
	Filing Date	October 20, 2003
	First Named Inventor	Lunsford, Duane A.
	Examiner Name	
Fax: 571-273-8300	Attorney Docket Number	58683US003
Total Number of Pages in This Submission: 4		
Date: July 20, 2006	Attorney for Applicant: Thomas M. Spielbauer	

ENCLOSURES (check all that apply)		
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Customer Number

Patent  
Case No.: 58683US003**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Inventor: LUNSFORD, DUANE A.

Application No.: 10/689172

Confirmation No.: 2716

Filed: October 20, 2003

Title: ADHESIVE ARTICLES INCLUDING NANOPARTICLE PRIMER AND  
METHODS FOR PREPARING SAME**REPLY BRIEF**Mail Stop Appeal Briefs-Patents  
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7-20-06

Date

  
Signed by: Jenny Thompson

Dear Sir:

This is a reply brief filed in response to the Examiner's Answer dated July 13, 2006.

This reply brief is believed to be timely submitted. It is believed that no fee is due;  
however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723.

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CLARIFYING REMARKS

The following remarks are intended to clarify Appellants' reasons for including arguments based on EP '756 in the Brief on Appeal dated May 8, 2006. Appellants hope that these clarifying remarks will aid the Board in placing these arguments in their proper context.

Specifically, Appellants note that the Examiner's Answer fails to present any substantive response to Appellants' arguments relying on EP '756. In fact, the only mention of these arguments is the statement that "appellants spend a significant amount of time and effort arguing against a reference (EP '756) which they admit is no longer relied upon by the examiner to reject any of the claims." (See Examiner's Reply, page 5.) This statement seems to suggest that the Examiner is of the belief that once a reference is no longer relied upon to make a rejection, any further arguments based upon that reference are irrelevant. Appellants respectfully submit, and have previously submitted, that this view is inconsistent with controlling case law. (See Brief on Appeal, page 7. ("Although Applicants acknowledge with appreciation the Examiner's position regarding EP '756; Applicants submit that EP '756 remains highly relevant as it clearly and unambiguously teaches away from the present invention."))

As indicated in Appellants' Brief on Appeal, "[t]he consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art." (In re Dow Chemical Co., 837 F.2d 469, 473, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988) (internal citations omitted).) Appellants respectfully submit that EP '756 is relevant to this determination of obviousness, regardless of the fact that it is not relied upon to make a rejection. (See, e.g., In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). ("When prior art contains apparently conflicting references, the Board must weigh each reference for its power to suggest solutions to an artisan of ordinary skill."))

In view of the above remarks, Appellants wish to clarify that the discussion of EP '756 in the Brief on Appeal was not presented to argue that the present claims are patentable over EP '756, as the Patent Office has already acknowledged this fact. Rather, these arguments are presented to demonstrate that, in light of all of the prior art, including EP '756, which teaches away from the present invention, it is clear that the Examiner has failed to establish that this prior art would have suggested to one of ordinary skill in the art that the claimed invention should be carried out and would have a reasonable likelihood of success.

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**CONCLUSION**

For the foregoing reasons, and the reasons presented in Appellants' Brief on Appeal, Appellants respectfully submit that the Examiner has erred in rejecting this application. Please reverse the Examiner on all counts.

Respectfully submitted,

Date

July 19, 2006

By:

Thomas M. SpielbauerThomas M. Spielbauer, Reg. No.: 58,492  
Telephone No.: 651-736-9814

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833